

DID THE UN "HIGH-LEVEL" PANEL SUCCUMB TO THE "SPIRIT OF COMPROMISE"?

Written by Joan Russow
Monday, 07 July 2014 17:19 -

by Joan E. Russow (PhD)

Global Compliance Research Project (December 5, 2004)

On December 2, 2004, the Report, "A More Secure World, Our Shared Responsibility" from UN High Level Panel Report on Threats, Challenges and Change was released.

In the Preamble to the recently released UN High Level Panel Report on Threats, Challenges and Change , Secretary General Kofi Annan indicated that:

"The following foundations and think tanks made financial or in -kind contributions to our work: Carnegie Corporation of New York, Ford Foundation, International Peace Academy, John D. and Catherine T. MacArthur Foundation, New York University Center on International Cooperation, Rockefeller Brothers Fund, Rockefeller Foundation, Stanford University Center for International Security and Cooperation, Stanley Foundation, United Nations Foundation and William and Flora Hewlett Foundation."

On reading the report one might begin to wonder whether the Panel succumbed to the "spirit of compromise". There was hope that the High Level Panel freed from the constraints of states would have drawn from the "best: of the precedents of international instruments rather than have embraced the compromiser's credo that the "best is the enemy of the good. It is only when one does a content analysis of what is addressed in the report within the context of almost 60 years of precedents from international instruments, does one become aware of the shortfall of the report and is one left with a series of questions: .

WHY DID THE PANEL ADVANCE AN EXPANDED SENSE OF "COLLECTIVE SECURITY" RATHER THAN OF "COMMON SECURITY"?

True security- is not "collective security". Collective security along with "human security", and the "responsibility to protect" notion have been used to justify the military 'humanitarian' intervention in other states.

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True security which is common security more aptly reflects the essence of the UN and involves the following objectives:

ii. to enable socially equitable and environmentally sound employment, and ensure the right to development;

iii. to achieve a state of peace, social justice and disarmament; through reallocation of military expenses;

iv. to create a global structure that respects the rule of law ; and

v. to ensure the preservation and protection of the environment, respect the inherent worth of nature beyond human purpose reduce the ecological footprint and move away from the current model of overconsumptive development.

i. to promote and fully guarantee respect for human rights including labour rights, civil and political rights, social and cultural rights- right to food, right to housing, right to universally accessible not for profit health care system , right to education and social justice;

For years, through conventions, treaties and covenants, through Conference Action plans, and through UN General Assembly resolutions, member states of the United Nations have incurred obligations, made commitments and created expectations related to the furtherance of Common Security.

The "high-level" panel has done a disservice to the body of "common security" international instruments that have emerged from almost 60 years of the UN.

WHY DID THE PANEL NOT STRESS THE IMPORTANCE OF REALLOCATING THE MILITARY BUDGET, AND IMPLEMENTING THE PEACE DIVIDEND?

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For years, members states of the United Nations have addressed the issue of the exorbitant waste of the military budget and the importance of the peace dividend. For example in the 1976 Habitat 1 statement, member states of the United Nations acknowledged that

"The waste and misuse of resources in war and armaments should be prevented. All countries should make a firm commitment to promote general and complete disarmament under strict and effective international control, in particular in the field of nuclear disarmament. Part of the resources thus released should be utilized so as to achieve a better quality of life for humanity and particularly the peoples of developing countries" (II, 12).

Also in 1992, all member states recognized that "Warfare is inherently destructive of sustainable development" (Rio Declarations. Principle 24, UNCED, 1992), and in Chapter 33, of Agenda 21, member states of the United Nations made a commitment to the "the reallocation of resources presently committed to military purposes" (33.18e)

WHY DID THE PANEL NOT PRAISE THE UNGA FOR BOLD MOVES TO ADDRESS INJUSTICE?

Rather than complement the UN General Assembly for its bold actions through years of UN General Assembly resolutions promoting Common security: the Report declares that "the General Assembly has lost vitality and often fails to focus effectively on the most compelling issues of the day" This statement clearly supports the US policy of denigrating the UN General Assembly when either it is prepared to have vital input into the compelling issues of the day. When there was a strong campaign for an emergency session of the UN General Assembly, under the Uniting for Peace resolution, prior to the invasion of Iraq, the US sent an intimidating letter to all members of the UN General Assembly. Also when the UNGA took recent "compelling" cases- such as the illegitimacy of the provocative wall in Israel- to the International court of Justice, the US demonstrated its usual disdain for the International Court of Justice.

WHY DID THE PANEL NOT CONDEMN PRE-EMPTIVE/PREVENTIVE AGGRESSION, OUTRIGHT?

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The Panel report appears to be addressing "US" unilateralism, by proposing various reforms of the UN Security Council, and by establishing a "basic set of criteria of legitimacy" such as the following five basic criteria of legitimacy: (a) Seriousness of threat (b) Proper purpose (c) Last resort (d) (e) Balance of consequences.

The Panel appears to lament that these provisions were not in place and that in the case of Yugoslavia, "paralysis in the Security Council led the North Atlantic Treaty Organization (NATO) to bypass the United Nations". The Panel thus ignores again the importance of the International Court of Justice under Chapter VI. In May 1999, the former republic of Yugoslavia took the 10 of the NATO countries to the International Court of Justice. Acting on behalf of Yugoslavia was Jean Puy former legal advisor the UN Secretary General and Ian Brownlie, from Oxford University. The NATO countries all stood before the ICJ and refused to respect the jurisdiction of the IJC. The Panel also ignores the significance of the US practice of intimidating, cajoling and bribing other states in the UN Security Council to support its contention that the latest US-led proposal for a military intervention fulfills the "criteria of legitimacy".

WHY DID THE PANEL NOT STRESS THE IMPORTANCE OF CHAPTER VI --PEACEFUL RESOLUTIONS OF DISPUTES- IN THE UN CHARTER?

Chapter VI of the Charter of the United Nations is entitled "Peaceful Solutions of Disputes" ; this Chapter conforms to the fundamental purposes of the Charter of the United Nations. Under Chapter VI of the Charter of the United Nations a number of provisions have been established to bring about the peaceful settlement of disputes:

The first, provision is to counter conflict of interest in decision making related to peaceful solutions of disputes. Decisions under Chapter V1 are constrained by Article 27. which reads that a party to a dispute shall abstain from voting. This provision which is present in Chapter VI but is absent in Chapter VII, and is consistently violated by the UN security council;

The second provision to bring about peaceful settlement of disputes is recourse, under article 36, to the rule of international law, through the International Court of Justice: Article 36 reads....legal disputes should as a general rule be referred by the parties to the> International Court of Justice in accordance with the provisions of the Statute of the Court.

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Chapter XIV complements Chapter VI in outlining the role of the International Court of Justice. Under chapter XIV, article 92 states that the International Court of Justice shall be the principal judicial organ of the United Nations...and under Article 93 all members of the UN are ipso facto parties to the statute of the International Court of Justice, and under Article 94, each member of the United Nations undertakes to comply with the decision of the International Court of Justice in a case to which it is a party and under Article 96 there is the provision for the UN General Assembly, UN Security Council and other organs of the UN to request the International Court of Justice to give an advisory opinion on any legal question. Chapter VII of the Charter of the United Nations, however, has been the Chapter used to justify military intervention if supported by the UN Security Council. Chapter VII not only violates the purposes of the Charter of the United Nations but also violates a fundamental principle under Article 2 - the sovereign equality of states because the Security Council with the veto extended or not defies this principle.

WHY DID THE PANEL NOT CONDEMN PROPOSALS THAT WILL RESULT IN THE MILITARIZATION OF SPACE

The US is undertaking to institute a National Missile Defence scheme which will be in violation of obligations under the 1967 Outer Space treaty, and is perceived to be instrumental in contributing to a new arms race. In 1967, the Outer space Treaty came into force. Under this treaty states, including the US, incurred the following obligations:

The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind humanity.... (Art. 1 Outer Space Treaty of 1967 in force 1967)

...the moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military maneuvers on celestial bodies shall be forbidden...(Art. IV Outer Space Treaty of 1967 in force 1967)

WHY DID THE PANEL NOT CONDEMN THE USE OF PROHIBITED WEAPON SYSTEMS SUCH AS DEPLETED URANIUM

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WHY DID THE PANEL NOT EXTEND ITS CONCERN ABOUT THE FAILURE TO HONOUR NON PROLIFERATION TREATY AND POTENTIAL LINK TO CIVIL NUCLEAR ENERGY?

The Panel urges "The nuclear-weapon States must take several steps to restart disarmament:(a) They must honour their commitments under article VI of the Treaty on the Non-Proliferation of Nuclear Weapons to move towards disarmament and be ready to undertake specific measures in fulfillment of those commitments". Article VI bestows a legal obligation "on all parties to pursue negotiations in good faith on measures to end the nuclear arms race and to achieve disarmament." The Panel proposes that states "be ready to undertake" when the nuclear arms states have had almost 35 years to discharge the obligation to end the nuclear arms race..

The Panel fails to acknowledge that although the obligations had been long-standing and that the US has withdrawn from both non-proliferation Treaty NPT which came into force in 1970 and from the anti- ballistic missile ABM treaty of 1972.

The Panel refers to the role of the IAEA but the Panel fails to call for the inspection of nuclear weapons held by the permanent members of the UN Security Council, Though the Panel expresses some concerns about civil nuclear energy and the connection with Non proliferation, the panel does not call for the phasing out of civil nuclear energy, and the removal of what is perceived to be a right to civil nuclear energy enshrined in the Non Proliferation Treaty. There also was a firm commitment made in 1972 at the Stockholm Conference on the elimination of the production of weapons of mass destruction, and

WHY DID THE PANEL NOT MOVE BEYOND THE CONDEMNATION OF THE "ILLICIT" TRADE IN ARMS

The panel perpetuates the notion that the "illicitness" of the in small arms is the sole issue. Although the Panel acknowledges "the key global instrument for this approach is the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, a comprehensive set of recommendations aimed at preventing and eradicating the illicit manufacture, transfer and circulation of small arms and light weapons"

The Panel fails to affirm that any trade in arms should be deemed illicit.

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WHY DID THE PANEL NOT CALL FOR A SHIFT IN THE PURPOSE OF THE USE OF SCIENTIFIC AND TECHNOLOGICAL PROGRESS?

The Panel failed to address the contribution to insecurity caused by the nature of scientific and technological progress; an issue that was raised in 1975 under the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace, UN General Assembly Resolution:

Proclaiming that all States shall promote international co-operation to ensure that the results of scientific and technological development are used in the interests of strengthening international peace and security, freedom and independence and also for the purpose of the economic and social development of peoples and the realization of human rights and freedoms in accordance with the Charter of the United Nations (Art. 2., Declaration on the Use of Scientific and Technological Progress in the Interests of Peace, UN General Assembly Resolution, 1975),

NOTING with concern that scientific and technological achievements can be used to intensify the arms race, suppress national liberation movements and deprive individuals and peoples of their human rights and fundamentals. NOTING also with concern that scientific and technological achievements can entail dangers for the civil and political rights of the individual or the groups and for human dignity. (Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind [Humanity], 1975)

WHY DID THE PANEL NOT CONDEMN ACTIONS THAT THE PROVOKE CONFLICT?

The Panel failed to condemn actions that have provoked conflict

- engaging in the propaganda of war, which is prohibited under the International Covenant of Civil and Political Rights.
- establishing military bases on foreign soil
- circulating nuclear powered and nuclear arms capable vessels in international and national waters, and berthing these vessels in urban ports.
- proselytizing extremist religious groups undermining cultural diversity, and contributing

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to prejudice and intolerance etc.

WHY DID THE PANEL NOT DISPEL THE MYTHS SURROUNDING INCREASE IN POPULATION?

The panel appears to perpetuate the population myth through its following statement about the of population in the destruction of the environment: "role of increased population being a daunting challenge to sustainable development.

The Panel fails to advocate" the position that had been taken at the 1995 UN Conference on Women: Equality, Development and Peace and at the International Conference on Population and Development that the way to stabilize population was to respect the reproductive health of women and to provide education and support to women.

This position stands firmly on the important statement made through Women's Action Agenda, 1992

Knowing that the major causes of environmental degradation are industrial and military pollutants, toxic wastes, and economic systems that exploit and misuse nature and people, we are outraged by suggestions that women's fertility rates (euphemistically called population pressures) are to blame (Women's Action AGENDA 1992)

WHY DID THE PANEL NOT URGE THE END TO CORPORATIONS' DESTABILIZING THE WORLD AND CONTRIBUTING TO CONFLICT?

The panel recognizes the "role of natural resources in wars in Sierra Leone, Angola and the Democratic Republic of the Congo, civil society organizations and the Security Council have turned to the "naming and shaming" of, and the imposition of sanctions against, individuals and corporations involved in illicit trade",

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The Panel fails, however, to urge the enforcement of commitments made by member states of the United Nations at the UN Conference on Women: Equality, Development and Peace, and the Habitat II conference. Every state made a commitment to ensure that Corporations, including transnational corporations ...comply with international law, including international environmental law. These commitments have rarely been acted on by states. One way that was proposed by a civil society campaign initiated by Richard Grossman is to do the following:

To revoke the licences and charters of corporations, including transnational corporations, if those corporations have persistently:

- (a) violated human rights or denied or colluded in denying social justice,
- (b) caused unremediated environmental degradation or harm to human health,
- (c) disregarded labour rights, including the right to strike, collective bargaining, the right to a safe working environment, the right to a living wage, and the right to pay equity
- (d) contributed to conflict and war, or
- (e) failed to pay compensation for past environmental degradation or non-compliance with international agreements.

WHY DID THE PANEL NOT DEMAND STATE AND CORPORATE COMPENSATION/REPARATION AND CANCELLATION OF WORLD DEBT?

There must be compensation and reparations from investors or corporations, and from administrations that have permitted investors or corporations to, or assisted them in, degrading the environment, violating fundamental human rights, or causing harm to human health, especially where those actions occurred:

- (a) in developing countries, and
- (b) on the lands of indigenous peoples, or in the communities of marginalized citizens in either developing or developed countries.

The panel did recommend "providing debt relief for highly indebted poor countries" but the panel did not go far enough for calling for cancellation of third world debt...

WHY DID THE PANEL NOT CALL FOR ACTING ON THE COMMITMENTS TO COUNTER THE "UNSUSTAINABLE MODELS OF DEVELOPMENT " AND THE IMPACT ON THE ENVIRONMENT?

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Although the report recognizing environmental degradation as being a "threat", there is no acknowledgement that states have violated conventions, treaties, conference action plans related to the environment. Under the UNGA 1982 World Charter of nature every state except the US, made the following commitment:

Every form of life is unique, warranting respect regardless of its worth to man [Humanity], and to accord other organisms such recognition's, man [humans] must be guided by a moral code of action (Preamble, UN Resolution, 37/7, World Charter of Nature, 1982)

Nature shall be respected and its essential processes shall not be impaired (Principle 1, UN Resolution, 37/7, World Charter of Nature, 1982) World Charter of Nature, 1982)

In Agenda 21, (UNCED, 1992) every state acknowledged the following:

the major cause of the continued deterioration of the global environment is the unsustainable pattern of consumption and production, particularly in industrialized countries, which is a matter of grave concern, aggravating poverty and imbalances. (4.3. Changing consumption patterns, Agenda 21. 1992)

In addition, there is no acknowledgement of the important commitment made at the 1996 Habitat II conference to "reduce the ecological foot print". Also, the panel does not acknowledge the application of the precautionary principle - a longstanding principle of international customary law - to all levels of threats to true security

WHY DID TH PANEL NOT BUILD ON DECLARATION ON THE "PEOPLES RIGHT TO PEACE"?

In 1984, the General Assembly adopted a Declaration on the Right of Peoples to Peace, in which the following was affirmed:

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Convinced that life without war serves as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations (Declaration on the Right of Peoples to Peace approved by General Assembly resolution 39/11 of 12 November 1984)

Appeals to all States and international organizations to do their utmost to assist in implementing the right of peoples to peace through the adoption of [appropriate] measures at both the national and the international level. (4. Declaration on the Right of Peoples to Peace approved by General Assembly resolution 39/11 of 12 November 1984)

WHY DID THE PANEL NOT RECOGNIZE THAT THERE WAS WELL ESTABLISHED LINK BETWEEN PEACE AND DEVELOPMENT?

For years there has been the recognition of the link between Peace and development: real development not external exploitative extraction of resources ...[Peace] embraces the whole range of actions reflected in concerns for security and implicit assumptions of trust between nations, social groups and individuals. It represents goodwill toward others and promotes respect for life while protecting freedom, human rights and the dignity of peoples and of individuals. Peace cannot be realized under conditions of economic and sexual inequality, denial of basic human rights and fundamental freedoms, deliberate exploitation of large sectors of the population, unequal development of countries, and exploitative economic relations. Without peace and stability there can be no development. Peace and development are interrelated and mutually reinforcing. (Par 13, The Nairobi Forward Looking Strategy, 1985) and subsequently in the international conference on population and development:

Develop broad-based education programmers that promote and strengthen respect for all human rights and fundamental freedoms, including the right development to promote the values of tolerance, responsibility and respect for the diversity and rights of others, and provide training in peaceful conflict resolution, in recognition of the United Nations Decade for Human Rights Education (1995-2005, Commitment 6, ICPD)

WHY DID THE PANEL NOT REVEAL THE MAJOR IMPEDIMENT TO OVERSEAS DEVELOPMENT?

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Although the Panel urged " many donor countries which currently fall short of the United Nations 0.7 per cent gross national product (GNP) target for ODA should establish a timetable for reaching it", there was not a clear indication of the longevity of this commitment, and of the major impediment to immediate implementation of this commitment. Almost from the inception of the United Nations there has been the commitment to allocate .7% of GDP to overseas development. Although the importance of this commitment was recognized by the Panel, there was a failure to urge the immediate implementation and the failure to acknowledge the major impediment to the global implementation of this commitments.

At the 2002 World Summit on Sustainable Development, the head of the US delegation was actually booed by not only civil society but also many member states of the UN, when he entered a US reservation about fulfilling the commitment of ,7%.

WHY DID THE PANEL NOT ADDRESS THE IRREVERSIBLE ENVIRONMENTAL, SOCIAL, ECONOMIC, HEALTH, PSYCHOLOGICAL CONSEQUENCES OF WAR AND CALL FOR THE DELEGITIMIZATION OF WAR and THUS WHY DID THE PANEL NOT STRESS THE FORCE OF COMPLIANCE?

From the earlier United Nations documents in the 1940s, throughout the years, to the recent United Nations Conference documents there has been a plea for states to sign and ratify international Conventions, Treaties, and Covenants, and to enact the necessary legislation to ensure the discharging of these obligations, and to comply with General Assembly Resolutions and Declarations, and Conference action plans. Throughout the almost 60 years of the United Nations in the international instruments, there are statements "urging states to sign and ratify" and there is an expressed intention to "transfer agreed to principles to state practices": Through these international instruments the UN has laid out the blueprint of change. The rhetoric is there but the political will to comply is absent. If the High Level panel were truly concerned about a "safe world" they would be calling for the Implementation of True security ; common security coupled with the force of compliance with years of obligations under international conventions, treaties and covenants , and with years of commitments under UN Conferences and action plans, and expectations under UN General assembly resolutions and declarations.

The above was an excerpt from an upcoming book "From 1984 to 2003 'what happens if peaceful prevention fails'? [double speak from the UN Panel]. Analysis of current proposals for UN reform within the context of international instruments

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Co-ordinator of Global Compliance Research Project; Author of the Charter of Obligations (350 pages of obligations incurred through treaties, Conventions and covenants, commitments through Conference Actions Plans, and expectations created through UN General Assembly).
Director, Vancouver Island Peace Institute. Participated with accredited organizations in UNCED, Rio+5, WSSD; UN Conference on Women (Prep Com, Beijing, and Beijing +5; Habitat 1 (1976, Habitat II, 1996 and Habitat II+5).